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Paper No. None

James H. Morris  
Wolf, Greenfield & Sacks, P.C.  
Federal Reserve Plaza  
600 Atlantic Avenue  
Boston MA 02210

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AUG 11 2004

In re Application of  
Marty Pierre, Rey Gaelle, and Pascal  
Chauvet  
Application No. 10/700,361  
Filed: November 3, 2003  
Attorney Docket No. S1022.80985US01  
Title: DRAM CONTROL CIRCUIT

OFFICE OF PETITIONS

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)<sup>1</sup>, filed June 23, 2004.

On November 3, 2003, the application was deposited, identifying Marty Pierre, Rey Gaelle, and Pascal Chauvet as joint inventors. The application was deposited without an oath or declaration. On February 12, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application (Notice), requiring an executed oath or declaration along with the surcharge associated with the late filing of an oath or declaration, and the basic filing fee. The notice set a two-month period for response. On June 28, 2004, a notice was mailed which withdrew this notice.

<sup>1</sup>A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
- (3) a statement of the last known address of the non-signing inventors;
- (4) either
  - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  - b) proof that the non-signing inventor cannot be found or reached after diligent effort;
- (5) a declaration which complies with 37 CFR §1.63.

On June 23, 2004, petitioner submitted a copy of the declaration<sup>2</sup>, the instant petition, a declaration of facts, the petition fee, the associated surcharge, the last known address of the non-signing inventor, and a copy of the assignment along with a translation. Petitioner has also included a two-month extension of time.

As such, Petitioner has met requirements (1) – (3) above.

Regarding the fourth requirement above, Petitioner has asserted that on September 19, 2002 and June 14, 2004, correspondence was sent to the non-signing inventor. Petitioner has characterized these mailings as constituting a “diligent effort...to locate Mrs. Rey<sup>3</sup>. ”

The Office disagrees. No mention is made as to any search done for the non-signing inventor. One cannot successfully assert that a diligent effort has been undertaken to locate the non-signing inventor if one has made no effort to locate the same, since one cannot claim that a diligent search was conducted if no search was performed. Petitioner has not given any indication that any effort has been made to locate the non-signing inventor. If Petitioner wishes to assert that the non-signing inventor cannot be located, he must perform a search before he may claim that the inventor cannot be found, as merely sending letters does not constitute a diligent search.

If future attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions<sup>4</sup>.

Regarding the fifth requirement above, the declaration does not comply with MPEP §602.05(a). This section of the MPEP sets forth that a copy of the oath or declaration from a prior nonprovisional application may be filed in a continuation application. However, if this oath or declaration is submitted subsequent to the filing of the child: the cover letter accompanying the declaration should identify the application number of the continuation application; the cover letter should indicate that the declaration submitted is a copy of the declaration from a prior application, and; applicant should label the copy of the declaration with the application number of the continuation application.

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<sup>2</sup> The declaration submitted with the instant petition is actually that which was associated with the grandparent of the instant application, 10/111,506, which was executed by each of the joint inventors save joint inventor Rey.

<sup>3</sup> Petition, page 1.

<sup>4</sup> See MPEP 409.03(d).

It does not appear that a cover letter has been included with the declaration which has been submitted with this petition, and the declaration does not contain the serial number of the instant application. As such, the declaration will not be accepted.

For these reasons, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an acceptable oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

Petitioner is reminded that all submitted statements should be from one having firsthand knowledge of the search.

The reply to this letter may be submitted by mail<sup>5</sup>, hand-delivery<sup>6</sup>, or facsimile<sup>7</sup>.

The reply should display "Please deliver to Paul Shanoski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process can take as much as three weeks.

**The application file will be retained in the Office of Petitions for two (2) months.**

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.



**Paul Shanoski  
Senior Attorney  
Office of Petitions  
United States Patent and Trademark Office**

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<sup>5</sup> Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

<sup>6</sup> Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

<sup>7</sup> (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

## Declaration and Power of Attorney for Patent Application

## Déclaration et Pouvoirs pour Demande de Brevet

### French Language Declaration

En tant que l'inventeur nommé ci-après, je déclare par le présent acte que:

As a below named inventor, I hereby declare that:

Mon domicile, mon adresse postale, et ma nationalité sont ceux figurant ci-dessous à côté de mon nom.

My residence, post office address and citizenship are as stated next to my name.

Je crois être le premier inventeur original et unique (si un seul nom est mentionné ci-dessous), ou l'un des premiers co-inventeurs originaux (si plusieurs noms sont mentionnés ci-dessous) de l'objet revendiqué, pour lequel une demande de brevet a été déposée concernant l'invention intitulée:

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

DRAM CONTROL CIRCUIT

et dont la description est fournie ci-joint à moins que la case suivante n'ait été cochée:

the specification of which is attached hereto unless one of the following boxes is checked:

a été déposée le 23 AVRIL 2002 sous le numéro de demande des Etats-Unis ou le numéro de demande international PCT 10/111 506

was filed on 23 APRIL 2002 as United States Application Number or PCT International Number 10/111 506

les spécifications portant le dossier de l'avocat numero \_\_\_\_\_

the specification of which bears attorney docket No. \_\_\_\_\_

et modifiée le \_\_\_\_\_  
(le cas échéant).

and was amended on \_\_\_\_\_  
(if applicable).

Je déclare par le présent acte avoir passé en revue et compris le contenu de la description ci-dessus, revendications comprises, telles que modifiées par toute modification dont il aura été fait référence ci-dessus.

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

Je reconnais devoir divulguer toute information pertinente à la brevetabilité, comme défini dans le Titre 37, §1.56 du Code fédéral des réglementations.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

### French Language Declaration

Je revendique par le présent acte avoir la priorité étrangère, en vertu du Titre 35, §119(a)-(d) ou § 365(b) du Code des Etats-Unis, sur toute demande étrangère de brevet ou certificat d'inventeur ou, en vertu du Titre 35, § 365(a) du même Code, sur toute demande internationale PCT désignant au moins un pays autre que les Etats-Unis et figurant ci-dessous et, en cochant la case, j'ai aussi indiqué ci-dessous toute demande étrangère de brevet, tout certificat d'inventeur ou toute demande internationale PCT ayant une date de dépôt précédant celle de la demande à propos de laquelle une priorité est revendiquée.

Prior foreign application(s)

Demande(s) de brevet antérieure(s)

PCT/FR01/02669

(Number)  
(Numéro)

00/10943

(Number)  
(Numéro)

PCT

(Country)  
(Pays)

FRANCE

(Country)  
(Pays)

Je revendique par le présent acte tout bénéfice, en vertu du Titre 35 §119(e) du Code des Etats-Unis, de toute demande de brevet provisoire effectuée aux Etats-Unis et figurant ci-dessous.

(Application No.)  
(N° de demande)

(Filing Date)  
(Date de dépôt)

(Application No.)  
(N° de demande)

(Filing Date)  
(Date de dépôt)

Je revendique par le présent acte, le bénéfice, en vertu du Titre 35 § 120 du Code des Etats-Unis, de toute demande de brevet effectuée aux Etats-Unis, ou en vertu du Titre 35, § 365(c) du même Code, de toute demande internationale PCT désignant les Etats-Unis et figurant ci-dessous et, dans la mesure où l'objet de chacune des revendications de cette demande de brevet n'est pas divulgué dans la demande antérieure américaine ou internationale PCT, en vertu des dispositions du premier paragraphe du Titre 35, § 112 du Code des Etats-Unis, je reconnais devoir divulguer toute information pertinente à la brevetabilité, comme défini dans le Titre 37, § 1.56 du Code Fédéral des réglementations, dont j'ai pu disposer entre la date de dépôt de la demande antérieure et la date de dépôt de la demande nationale ou internationale PCT de la présente demande:

(Application No.)  
(N° de Demande)

(Filing Date)  
(Date de Dépôt)

(Application No.)  
(N° de Demande)

(Filing Date)  
(Date de Dépôt)

Je déclare par le présent acte que toute déclaration ci-incluse est, à ma connaissance, vérifique et que toute déclaration formulée à partir de renseignements ou de suppositions est tenue pour vérifique; et de plus, que toutes ces déclarations ont été formulées en sachant que toute fausse déclaration volontaire ou son équivalent est possible d'une amende ou d'une incarcération, ou des deux, en vertu de la Section 1001 du Titre 18 du Code des Etats-Unis, et que de telles déclarations volontairement fausses risquent de compromettre la validité de

I hereby claim foreign priority under Title 35, United States Code, §119(a)-(d) or § 365(b) of any foreign applications(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below, and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

Priority not claimed

24 AUGUST 2001

Droit de priorité non revendiqué

(Day/Month/Year Filed)

(Jour/Mois/Année de dépôt)

25 AUGUST 2000

(Day/Month/Year Filed)

(Jour/Mois/Année de dépôt)

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or § 365(c) of any PCT international application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

(Status)(Patented, pending abandoned)

(Statut)(breveté, en cours d'examen, abandonné)

(Status)(Patented, pending abandoned)

(Statut)(breveté, en cours d'examen, abandonné)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

## French Language Declaration

POUVOIR: En tant que l'inventeur cité, je désigne par la présente l'(les) avocat(s) et/ou agent(s) suivant(s) pour qu'il(s) poursuive(nt) la procédure de cette demande de brevet et traite(nt) toute affaire s'y rapportant avec l'Office des brevets et des marques: (mentionner le nom et le numéro d'enregistrement).

David Wolf	17,528	Gary S. Engelson	35,128
George L. Greenfield	17,756	Randy J. Pritzker	35,986
Stanley Sacks	19,900	Richard F. Giunta	36,149
Edward F. Perlman	28,105	Douglas R. Wolf	36,971
Lawrence M. Green	29,384	Elizabeth R. Plumer	36,637
Steven J. Henry	27,900	Timothy J. Oyer	36,628
Edward R. Gates	31,616	John N. Anastasi	37,765
William R. McClellan	29,409	Helen C. Lockhart	39,248
Ronald J. Krandsdorf	20,004	James M. Hanifin, Jr.	39,213
Jason M. Honeyman	31,624	John R. VanAmsterdam	40,212
James H. Morris	34,681	Matthew B. Lowrie	38,228
Peter C. Lando	34,654	Robert A. Skrivanek, Jr.	41,316

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (list name and registration number)

Robert M. Abrahamsen	40,886	Michael J. Pomianek	46,190
Edward J. Russavage	43,069	Maria A. Trevisan	48,207
Neil P. Ferraro	39,188	M. Brad Lawrence	47,210
Lisa E. Winsor	44,405	Konstantinos Andrikopoulos	48,915
Mark Steinberg	40,829	Eric Amundsen	46,518
Stephen R. Finch	42,534	Carole Boelitz	48,958
Joseph Teja, Jr.	45,157	Robert E. Hunt	39,231
Jeffrey B. Powers	45,021	Chantal Morgan-D'Apuzzo	48,825
Alan W. Steele	45,128	Kristin D. Wheeler	43,583
Daniel P. McLoughlin	46,066	Lisa K. Jorgenson	34,845
Robert H. Walat	46,324	Robert D. McCutcheon	38,717
Thomas G. Field, III	45,596	Mario J. Donato, Jr.	37,816
Ilan Barzilay	46,540	Nainesh Shah	40,166

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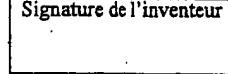
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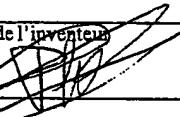
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James H. Morris  
(617) 720-3500

Nom complet de l'unique ou premier inventeur <b>MARTY Pierre</b>		Full name of sole or first inventor	
		Date <b>13/06/02</b>	Inventor's signature
Domicile <b>38180 SEYSSINS, FRANCE</b>		Residence	
Nationalité <b>French</b>		Citizenship	
Adresse Postale <b>29, Rue de la Paix</b>		Post Office Address	
Nom complet du second co-inventeur, le cas échéant <b>REY Gaëlle</b>		Full name of second or joint inventor	
		Inventor's signature	Date
Domicile <b>38000 GRENOBLE, FRANCE</b>		Residence	
Nationalité <b>French</b>		Citizenship	
Adresse Postale <b>49, Rue du Vercors</b>		Post Office Address	
(Fournir les mêmes renseignements et la signature de tout co-inventeur supplémentaire.)		(Supply similar information and signature for third and subsequent joint inventors.)	

## French Language Declaration

Nom complet du troisième co-inventor, le cas échéant CHAUVET Pascal		Full name of third joint inventor, if any	
Signature de l'inventeur  Date 6/07/2002		Inventor's signature Date	
Domicile 38000 GRENOBLE, FRANCE		Residence	
Nationalité French		Citizenship	
Adresse Postale 7A, Chemin Barral		Post Office Address	
Nom complet du quatrième co-inventor, le cas échéant		Full name of fourth joint inventor, if any	
Firma del quarto inventore		Inventor's signature Date	
Domicile		Residence	
Nationalité		Citizenship	
Adresse Postale		Post Office Address	
Nom complet du cinquième co-inventor, le cas échéant		Full name of fifth joint inventor, if any	
Firma del secondo inventore		Inventor's signature Date	
Domicile		Residence	
Nationalité		Citizenship	
Adresse Postale		Post Office Address	
Nom complet du sixième co-inventor, le cas échéant		Full name of sixth joint inventor, if any	
Firma del sesto inventore		Sixth inventor's signature Date	
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